

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Nevada Yellow Cab Corporation DBA Yellow Cab	)	File Number: EB-08-LA-0315
	)	
Licensee of Station KNNU518	)	NAL/Acct. No. 200932900001
Las Vegas, Nevada	)	FRN: 0016127169
	)	
	)	

**FORFEITURE ORDER**

**Adopted: December 9, 2009****Released: December 11, 2009**

By the Regional Director, Western Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (“*Order*”), we issue a monetary forfeiture in the amount of six thousand dollars (\$6,000) to Nevada Yellow Cab Corporation DBA Yellow Cab (“Nevada Yellow Cab”), licensee of Private Land Mobile radio station KNNU518, in Las Vegas, Nevada, for willful and repeated violation of Section 1.903(a) of the Commission's Rules (“*Rules*”).<sup>1</sup> On December 19, 2008, the Enforcement Bureau’s Los Angeles Office issued a Notice of Apparent Liability for Forfeiture (“*NAL*”) in the amount of \$12,000 to Nevada Yellow Cab for operating station KNNU518 on 152.375 MHz and 157.635 MHz, frequencies not authorized by its license, and by operating station KNNU518 from a location not authorized by its license. In this *Order*, we consider Nevada Yellow Cab’s arguments that it made a good faith effort to comply with Rules prior to the inspection by the Los Angeles Office, and that it has a history of compliance with the Commission’s Rules.

**II. BACKGROUND**

2. On October 7, 2008, in response to a complaint alleging interference and unlicensed operation on 152.375 MHz and 157.635 MHz in the Las Vegas area, an agent from the Los Angeles Office used mobile direction finding techniques to locate the offending radio station operating on 152.375 and 157.635 MHz at 5225 West Post Road, Las Vegas, Nevada, with coordinates of 36° 04' 05.5" north latitude and 115° 12' 39.5" west longitude (“*West Post Road Site*”), an office of Nevada Yellow Cab. At the time of the investigation, Nevada Yellow Cab was authorized to transmit from 2535 Las Vegas Boulevard South, Las Vegas, Nevada with coordinates of 36° 08' 32.9" north latitude and 115° 09' 022" west longitude (“*Las Vegas Boulevard Site*”), as well as 4740 South Valley View Boulevard, Las Vegas, Nevada, with coordinates of 36° 06' 16.9" north latitude and 115° 12' 48" west longitude (“*South Valley View Boulevard Site*”) under station authorization KNNU518. Further, under KNNU518 Nevada Yellow Cab was authorized to operate on 152.330 MHz and 157.590 MHz only.<sup>2</sup>

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<sup>1</sup> 47 C.F.R. § 1.903(a).

<sup>2</sup> Along with station KNNU518, Nevada Yellow Cab is also the licensee of stations KNNU516, WPHJ312 and WNCN965 in the Las Vegas area. At the time of the inspections, none of these licenses authorized Nevada Yellow Cab to operate on 152.375 MHz and 157.635 MHz. Additionally, none of these licenses authorized operations from

3. On October 8, 2008, the Los Angeles agent again used mobile direction finding techniques to locate radio operations on 152.375 MHz and 157.635 MHz being transmitted from Nevada Yellow Cab's location at the West Post Road Site.

4. On October 9, 2008, the Los Angeles agent again used mobile direction finding techniques to locate radio operations on 152.375 and 157.635 MHz being transmitted from Nevada Yellow Cab's location at the West Post Road Site. The agent then conducted an inspection of KNNU518. The agent interviewed the chief executive officer and system engineer for Nevada Yellow Cab. Both individuals acknowledged that they were aware that the license for frequencies 152.375 and 157.635 MHz had expired several years prior but believed that Nevada Yellow Cab was working on having the license re-instated. In addition, both individuals acknowledged that the relocation of their transmitter site to the current location at West Post Road Site was operating a radio station from an unauthorized location. However, the managers stated that they believed that Nevada Yellow Cab had contracted with a company to secure proper FCC authorization to relocate their radio operations, but that the attempts were not successful.

5. On October 27, 2008, a fax was sent to the Los Angeles Office from Nevada Yellow Cab detailing its efforts, since January 2006, to change its authorizations to reflect the 5225 West Post Road site. These efforts included discussions with consultants; however, these discussions were stopped in October 2007, and did not resume until April and June 2008. A review of Commission databases revealed that an application to modify the KNNU518 license to include frequencies 152.375 MHz and 157.635 MHz, and to change the transmitter location to the West Post Road Site, was filed with the Commission on October 16, 2008, after the inspection by the FCC agent.<sup>3</sup> This application was subsequently granted on November 14, 2008.

6. On December 19, 2008, the Los Angeles Office issued a *NAL* in the amount of \$12,000 to Nevada Yellow Cab.<sup>4</sup> In the *NAL*, the Los Angeles Office found that Nevada Yellow Cab apparently willfully and repeatedly violated Section 1.903(a) of the Rules by operating on frequencies not authorized on the KNNU518 license, and by operating KNNU518 from a location not authorized by its license. Nevada Yellow Cab filed a response ("*Response*") to the *NAL* on January 16, 2009. In its *Response*, Nevada Yellow Cab argues that it made good faith efforts to comply with the Rules, and that it has a history of compliance with the Rules.

### III. DISCUSSION

7. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,<sup>5</sup> Section 1.80 of the Rules,<sup>6</sup> and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.<sup>7</sup> In examining the

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5225 West Post Road, Las Vegas, Nevada.

<sup>3</sup> See File No. 0003612392.

<sup>4</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200932900001 (Enf. Bur., Western Region, Los Angeles Office, released December 19, 2008).

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. § 1.80.

<sup>7</sup> 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

*Response*, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>8</sup>

8. Section 1.903(a) of the Rules requires that stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service, and with a valid authorization granted by the Commission. On October 7, 8, and 9, 2008, a Los Angeles agent located transmissions from KNNU518 on 152.375 MHz and 157.635 MHz emanating from Nevada Yellow Cab's West Post Road Site in Las Vegas, Nevada. At the time of the investigation, KNNU518 was not authorized to operate on 152.375 MHz or 157.635 MHz. Additionally, KNNU518 was not authorized to operate from the West Post Road Site. The calculated distance separating the KNNU518 point of operation from the West Post Road Site to the South Valley View Boulevard Site was greater than 2.5 miles (specifically, a difference of approximately 131 seconds of latitude and approximately 9 seconds of longitude). For the Las Vegas Boulevard South Site authorized on the KNNU518 license, the calculated distance separating this location from the point of operation at the West Post Road Site was greater than 5.9 miles (specifically, a difference of approximately 267 seconds of latitude and approximately 197 seconds of longitude).<sup>9</sup> Nevada Yellow Cab management was aware that radio station KNNU518 was operating on 152.375 MHz and 157.635 MHz, and acknowledged that the current license for KNNU518 did not allow operation from the West Post Road Site.

9. In its *Response*, Nevada Yellow Cab does not dispute the facts recited in the *NAL*. Instead it argues that it made numerous attempts to amend its license and had contracted with an outside company in 2006 to ensure that the required amendments to the license were made. When Nevada Yellow Cab discovered in April 2008 that its radio operation was not properly licensed, it terminated its relationship with the company it was dealing with and in June 2008 contracted with another company which had commenced frequency coordination prior to the Los Angeles agent's inspection. This company ultimately succeeded in coordinating and filing an application with the Commission, however, no application was filed until after the Los Angeles agent's inspection on October 9, 2008. Reductions of proposed forfeitures based on good faith efforts to comply generally involve situations where violators demonstrated that they initiated measures to correct or remedy violations,<sup>10</sup> or that they had established compliance programs in place,<sup>11</sup> prior to the Commission's involvement. We find that Nevada Yellow Cab's efforts prior to the inspection by the Los Angeles agent warrant a substantial good faith reduction. Consequently, we reduce the proposed forfeiture to \$8,400.

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<sup>8</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>9</sup> In the *NAL*, the Los Angeles Office stated that Section 1.947(a) of the Rules, 47 C.F.R. § 1.947(a), requires that all major modifications, as defined in Section 1.929 of the Rules, require prior Commission approval. The *NAL* referenced Section 1.929(d)(1)(i) of the Rules, 47 C.F.R. § 1.929(d)(1)(i), which defines one of the major actions as any change in transmit antenna location by more than 5 seconds in latitude or longitude for fixed point-to-point facilities. We note that Section 1.929(d) of the Rules applies to microwave, aural broadcast auxiliary, and television broadcast services. Section 1.929(c)(4) of the Rules, 47 C.F.R. § 1.929(c)(4), applies to stations in the Private Land Mobile Radio Services, such as KNNU518, and defines as a major change "any change in the authorized location or number of base stations fixed, control, except for deletions of one or more such stations . . . ." 47 C.F.R. § 1.929(c)(4)(v). Therefore, the Los Angeles Office was correct in its determination that the operation of station KNNU518 at the West Post Road Site would be considered a major change pursuant to Section 1.929 of the Rules.

<sup>10</sup> See *Radio One Licenses, Inc.*, 18 FCC Rcd 15964 (2003), *recon. denied*, 18 FCC Rcd 25481 (2003).

<sup>11</sup> See *Tidewater Communications, Inc.*, 18 FCC Rcd 5524, 5525 (EB 2003).

10. Nevada Yellow Cab also appears to contend that it has a history of overall compliance with the Commission's Rules. We have reviewed our records and we concur. Consequently, we further reduce the proposed forfeiture to \$6,000. Nevada Yellow Cab also states that its operations are now in compliance with its licenses. The Commission has stated in the past that a licensee is expected to correct errors when they are brought to the licensee's attention and that such corrections are not grounds for a downward adjustment in the forfeiture.<sup>12</sup>

11. We have examined the *Response* to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that Nevada Yellow Cab willfully and repeatedly violated Section 1.903(a) of the Rules. Considering the entire record and the factors listed above, we find that reduction of the proposed forfeiture to \$6,000 is warranted.

#### IV. ORDERING CLAUSES

12. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"), and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules, Nevada Yellow Cab Corporation DBA Yellow Cab **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$6,000 for willfully and repeatedly violating Section 1.903(a) of the Rules.<sup>13</sup>

13. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>14</sup> Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures.

<sup>12</sup> *AT&T Wireless Services, Inc.* 17 FCC Rcd 21866, 21871-76 (2002); see also *Rama Communications, Inc.*, 23 FCC Rcd 18209, 18211 (EB 2008) ("[W]here lapses in compliance occur, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify the licensee's rule violation").

<sup>13</sup> 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 1.903(a).

<sup>14</sup> 47 U.S.C. § 504(a).

14. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Nevada Yellow Cab Corporation DBA Yellow Cab at its address of record.

**FEDERAL COMMUNICATIONS COMMISSION**

Rebecca L. Dorch  
Regional Director, Western Region  
Enforcement Bureau